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ADDITIONAL PROTOCOL ON CONSULAR FUNCTIONS TO THE VIENNA CONVENTION ON CONSULAR RELATIONS

Report of the Sixth Committee

Rapporteur: Mr. Saeid MIRZAEE-YENGEJEH
(Islamic Republic of Iran)

I. INTRODUCTION

1. The item entitled "Additional protocol on consular functions to the Vienna Convention on Consular Relations" was included in the provisional agenda of the forty-fifth session of the General Assembly pursuant to a request by Austria and Czechoslovakia.

2. At its 3rd plenary meeting, on 21 September 1990, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it a letter dated 2 April 1990 from the Chargé d'affaires a.i. of the Permanent Missions of Austria and Czechoslovakia to the United Nations addressed to the Secretary-General (A/45/141). Annexed to the letter was an explanatory memorandum to which was attached the text of the draft of the Additional Protocol to the Vienna Convention on Consular Relations.

4. The Sixth Committee considered the item at its 20th to 22nd meetings, from 22 to 24 October, and at its 43rd meeting, on 16 November 1990. The summary records of those meetings (A/C.6/45/SR.20-22 and 43) contain the views of the representatives who spoke on the item.

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II. CONSIDERATION OF DRAFT RESOLUTION

5. At the 43rd meeting, on 16 November 1990, the representative of Austria introduced a draft resolution entitled "Additional protocol on consular functions to the Vienna Convention on Consular Relations" (A/C.6/45/L.11), sponsored by Austria, Colombia, Cyprus, Czechoslovakia, Madagascar and the United States of America.

6. At the same meeting, the Committee adopted draft resolution A/C.6/45/L.11 without a vote (see para. 7).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Recalling that the Vienna Convention on Consular Relations of 24 April 1963 1/ sets the basic framework for the exercise of consular functions,

Considering that paragraph 2 of article 73 of the said Convention provides that nothing in the Convention shall preclude States from concluding international agreements confirming or supplementing or extending or amplifying the provisions thereof,

Having in mind further development of the international practice in the field of consular functions as a result of an increased co-operation among States,

Realizing that one of the functions of the General Assembly in promoting international co-operation consists in initiating studies and making recommendations for the purpose of encouraging the progressive development of international law and its codification,

Having considered the item entitled "Additional protocol on consular functions to the Vienna Convention on Consular Relations",

1. Reaffirms its conviction that the Vienna Convention on Consular Relations has played, for over two decades, and will continue to play an essential role in promoting co-operation and understanding among States, in creating favourable conditions for the activities of consular posts and for the conduct of consular relations;

1/ United Nations, Treaty Series, vol. 596, p. 261.

2. Takes note with interest of the proposal concerning the elaboration of an additional protocol on consular functions to the Vienna Convention on Consular Relations; 2/

3. Requests the Secretary-General to seek the views of Member States as well as of other States parties to the said Convention on the proposal, including the procedure to be followed in considering this item, and to submit a report thereon to the General Assembly at its forty-sixth session;

4. Decides to include in the provisional agenda of its forty-sixth session the item entitled "Additional protocol on consular functions to the Vienna Convention on Consular Relations".

2/ A/45/141.

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CONCILIATION RULES OF THE UNITED NATIONS

Report of the Sixth Committee

Rapporteur: Mr. Saeid MIRZAEE-YENGEJEH (Islamic Republic of Iran)

I. INTRODUCTION

1. The item entitled "Conciliation rules of the United Nations" was included as an additional item in the provisional agenda of the forty-fifth session at the request of Guatemala.

2. At its 3rd plenary meeting, on 21 September 1990, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. In connection with the item, the Sixth Committee had before it a letter dated 16 July 1990 from the Permanent Representative of Guatemala addressed to the Secretary-General (A/45/143 and Corr.1) to which an explanatory memorandum was attached in accordance with rule 20 of the rules of procedure of the General Assembly.

4. The Sixth Committee considered the item at its 17th to 19th and 43rd meetings on 17 to 19 October and 16 November 1990. The summary records of those meetings (A/C.6/45/SR.17-19 and 43) contain the views of the representatives who spoke during the consideration of the item.

II. CONSIDERATION OF PROPOSALS

5. At the 17th meeting, on 17 October, the representative of Guatemala made a statement with specific reference to document A/45/143 and Corr.1 submitted by his Government on the item. He introduced changes in annex II of the document (draft resolution) which, as amended, was placed before the Committee for consideration in document A/C.6/45/L.2 and read as follows:

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CONCILIATION RULES OF THE UNITED NATIONS

Guatemala: draft resolution

United Nations rules for the conciliation of disputes between States

The General Assembly,

Recognizing the value of conciliation as a method of amicably settling disputes arising in the context of relations between States,

Convinced that the establishment of international rules of conciliation incorporating the results of the most recent scientific studies and experience in the field of international conciliation, together with certain innovations which should be made in the traditional practice in this field, could contribute to the development of harmonious relations between States,

1. Recommends the application of the United Nations rules for the conciliation of disputes between States, the text of which is contained in annex I to the present resolution, in any case where a dispute arises between States which it has not been possible to settle by direct negotiations and which the parties wish to settle by purely amicable means;

2. Requests the Secretary-General to take appropriate measures to circulate to all Governments the text of the present resolution, together with those rules and the explanatory commentary on their application contained in annex II to the present resolution.

Annex I

UNITED NATIONS RULES FOR THE CONCILIATION OF DISPUTES BETWEEN STATES

CHAPTER I

APPLICATION OF THE RULES

Article 1

1. These rules apply to the conciliation of disputes between States which it has not been possible to settle by means of negotiation or amicable methods of settlement other than conciliation, whether the disputes are of a legal nature or not. These rules do not apply, however, to disputes of a purely legal nature in which no questions of responsibility or reparation arise and in which there is no disagreement as regards the facts.

2. The States applying these rules may at any time agree to exclude or amend any of their provisions. The State initiating the conciliation may propose an amended version of the rules. The State to which these rules are proposed may do the same.

CHAPTER II

INITIATION OF THE CONCILIATION PROCEEDINGS

Article 2

1. The State which initiates conciliation proceedings in accordance with these rules shall send the other State a written invitation to conduct a process of conciliation in accordance with these rules, and identifying and describing the subject of the dispute. In the invitation, the State initiating the conciliation proceedings shall indicate the amendments it proposes to the rules, if any, and its choice as regards the number of conciliators. The invitation shall also indicate the language or languages which are to be used in the conciliation proceedings and also the linguistic or other services which the conciliator or conciliators may need.

2. For the preparation of the invitation, the State initiating the proceedings may request the assistance and advice of the Secretary-General of the United Nations.

3. The conciliation proceedings shall begin as soon as possible after the State to which the invitation has been sent has accepted it or, if it is not accepted, the States have agreed to apply an amended version of these rules.

4. If the States cannot reach agreement on the definition of the dispute, they may jointly request the assistance of the Secretary-General of the United Nations to resolve the difficulty.

CHAPTER III

CASES IN WHICH MORE THAN ONE STATE HAS THE SAME INTEREST WITH REGARD TO THE DISPUTE

Article 3

When more than two States are involved in the same dispute, the States which have the same viewpoints and the same interest shall be considered and shall act jointly as a single party.

CHAPTER IV

NUMBER OF CONCILIATORS

Article 4

There may be a sole conciliator, three conciliators or five conciliators. In the two latter cases the conciliators shall form a commission.

CHAPTER V

APPOINTMENT OF CONCILIATORS

Article 5

For the appointment of conciliators the parties shall take into account the system of investigation and conciliation envisaged in General Assembly resolution 268 D (III) of 28 April 1949 and any other similar system established by a regional body in which both parties participate. If the dispute involves issues of fact only, they shall take into account the system envisaged in General Assembly resolution 2329 (XXII).

Article 6

If the parties have agreed that a sole conciliator shall be appointed, that conciliator shall be appointed by agreement between them. If such an agreement is not reached within two months, the conciliator shall be appointed by the government of a third State, chosen by agreement between the parties or, if no such agreement is reached within two months, by the President of the International Court of Justice. If the President is a national of one of the parties, the appointment shall be made by the Vice-President or the next judge of the Court in order of seniority who is not a national of the parties. The conciliator shall not have the nationality of any of the parties, shall not reside or have resided habitually in their territory and shall not be or have been in the service of any of them.

Article 7

If the parties have agreed that three conciliators shall be appointed, each one of them shall appoint a conciliator who may be of its own nationality. The parties shall appoint by mutual agreement the third conciliator, who may not be of the nationality of any of the parties or of the other conciliators. The third conciliator shall act as chairman of the commission. If he is not appointed within two months of the appointment of the conciliators appointed individually by the parties, the third conciliator shall be appointed by the government of a third State chosen by agreement

between the parties or, if such agreement is not obtained within two months, by the President of the International Court of Justice. If the President is a national of one of the Parties, the appointment shall be made by the Vice-President or the next judge of the Court in order of seniority who is not a national of the parties. The third conciliator shall not reside or have resided habitually in the territory of the parties nor be or have been in their service.

Article 8

1. If the parties have agreed that five conciliators should be appointed, each one of them shall appoint a conciliator who may be chosen from among its nationals. The other three conciliators, one of whom shall be chosen with a view to his acting as chairman, shall be appointed by agreement between the parties from among nationals of third States and shall be of different nationalities. None of them shall reside or have resided habitually in the territory of the parties or be or have been in their service. None of them shall have the same nationality as that of the other two conciliators.

2. If the appointment of the conciliators whom the parties are to appoint jointly has not been effected within three months, they shall be appointed by the government of a third State chosen by agreement between the parties or, if such an agreement is not reached within three months, by the President of the International Court of Justice. If the President is a national of one of the parties, the appointment shall be made by the Vice-President or the next judge in order of seniority who is not a national of the parties. The Government or member of the International Court of Justice making the appointment shall also decide which of the three conciliators shall act as chairman.

3. If at the end of the three-month period referred to in the preceding paragraph, the parties have been able to appoint only one or two conciliators, the two conciliators or the conciliator still required shall be appointed in the manner described in the preceding paragraph. If the parties have not agreed that the conciliator or one of the two conciliators whom they have appointed shall act as chairman, the Government or member of the International Court of Justice appointing the two conciliators or the conciliator still required shall also decide which of the three conciliators shall act as chairman.

4. If, at the end of the three-month period referred to in paragraph 2 of this article the parties have appointed three conciliators but have not been able to agree which of them shall act as chairman, the chairman shall be chosen in the manner described in that paragraph.

Article 9

In the event that a sole conciliator dies, resigns or for any other reason is prevented from continuing to discharge his duties, a successor shall be appointed as soon as possible in the same way as the original conciliator

was appointed. The vacancies which may occur in a conciliation commission as a result of death, resignation or any other cause shall be filled as soon as possible by the method established for appointing the members to be replaced.

CHAPTER VI

RULES APPLICABLE TO CONCILIATION BY A SOLE CONCILIATOR

Article 10

The conciliator, acting in an independent and impartial manner, shall seek to ensure that the parties reach an amicable settlement of the dispute. To that end, he shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other factors, the rights and obligations of the parties and the facts and circumstances of the case. If no settlement is reached during consideration of the dispute, he shall draw up and communicate to the parties, in writing, such terms of settlement as he deems appropriate.

Article 11

1. After his appointment, the conciliator shall request each of the parties to submit to him a statement, in writing, describing the elements of the dispute and the points at issue, accompanied by any information or evidence which the party considers necessary or useful. Each party shall send the other a copy of this statement and the annexes thereto.

2. The conciliator may request any of the parties to submit to him an additional statement, in writing, concerning its original statement and concerning the facts and grounds in support thereof, accompanied by any information or evidence which the party considers necessary or useful. The submitting party shall send a copy of the additional statement and the annexes thereto to the other party.

3. At any stage of the conciliation proceedings, the conciliator may request any of the parties to submit any other documents or information which he considers necessary or useful; such documents or information shall be communicated to the other party.

Article 12

1. The conciliator shall conduct the proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, and the need for a speedy settlement of the dispute.

2. The conciliator may hear the parties jointly or separately and in any place.

3. At any stage of the proceedings, the conciliator may make proposals for a settlement of the dispute.

4. In putting forward proposals and terms of settlement, the conciliator shall refrain from presenting any final conclusions with regard to the facts at issue or from ruling formally on issues of law, unless the parties have jointly requested him to do so.

5. No minutes shall be drawn up of the meetings between the parties, or one of them, and the conciliator, nor of the evidence submitted.

6. A certified copy of any document submitted by a party as evidence shall be provided to the other party.

7. If a party submits an original document as evidence, it shall be entitled to have that document returned to it; a certified copy of the document shall remain in the possession of the conciliator.

Article 13

1. The work of the conciliator, including his meetings with one or both the parties, which shall be private, shall be secret. The conciliator and the parties shall refrain from divulging any documents or oral statements, or any communication concerning the progress of the proceedings, without the prior approval of both parties.

2. If any indiscretion occurs during the proceedings, the conciliator may determine its possible effect on the continuation of such proceedings.

3. Except in the case of evidence submitted during the conciliation proceedings which the parties may submit in any judicial or arbitral proceedings held after the conclusion of the conciliation proceedings, the obligation to respect the secrecy of the conciliation proceedings shall remain in effect for the parties and for the conciliator after the proceedings are concluded and shall extend to the terms of settlement and any proposal made by the conciliator, whether accepted by the parties or not. After the conclusion of the proceedings the parties may, by agreement, make all or some of the documents available to the public or authorize the publication of all or some of them.

4. Upon conclusion of the proceedings, the conciliator shall destroy every original or copy in his possession of any written material submitted in accordance with article 38.

5. Upon conclusion of the proceedings, the conciliator shall deposit a set of the documents with each of the parties.

Article 14

1. If the terms of settlement are not accepted by both parties and the latter do not wish further efforts to be made to reach agreement on different terms, the proceedings shall be terminated.

2. If the terms of settlement are not accepted by both parties but the latter wish efforts to reach agreement on different terms to continue, new proceedings shall be initiated, to which all the provisions of the present chapter shall apply, except that, if the conciliator has no objection, the parties may, with respect to the new proceedings, reduce by mutual agreement the time-limit mentioned in article 15.

Article 15

Without prejudice to the right of the parties, acting by mutual agreement, and of the conciliator, to extend this time-limit and the possible application of article 13, paragraph 2, or of article 45, the conciliator shall conclude his work within two months from the date on which the procedures mentioned in article 11, paragraph 1, were completed.

Article 16

The conciliator may, at any time, request the Secretary-General of the United Nations for advice and assistance with regard to the administrative and procedural aspects of his work.

CHAPTER VII

RULES APPLICABLE TO CONCILIATION BY COMMISSION

Fundamental principles

Article 17

The commission shall attempt to clarify the issues in dispute and to help the parties reach an agreement. It shall seek to obtain all information necessary or useful for the attainment of those objectives. If no settlement is reached during consideration of the dispute, the commission shall draw up and communicate to the parties, through a report of its chairman, such terms of settlement as it deems appropriate.

Article 18

The commission shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties and the facts and circumstances of the case.

Procedures of the commission

Article 19

While adhering to the procedural provisions contained in chapters VII and XVIII of these rules, the commission shall adopt its own procedures.

Article 20

1. Before the commission begins its work, the parties shall designate their representatives and shall communicate the names of such representatives to the chairman of the commission. The chairman shall determine, in agreement with the parties, the place and date of the commission's first meeting, to which the members of the commission and the representatives shall be convoked.

2. Before the first meeting of the commission, its members may meet informally to deal with administrative and procedural matters.

Article 21

The representatives of the parties may be assisted by counsel and experts appointed by the parties.

Article 22

1. At its first meeting, the commission shall appoint a secretary, who may be a United Nations official. It shall then hear initial statements from the parties. If it decides that the information provided by the parties so permits, the commission shall agree on the method to be used to consider the dispute and, in particular, whether the parties should be invited to submit written statements and in what order and within what time-limits such statements must be submitted, as well as the dates when, if this is required, representatives and counsel will be heard. The decisions taken by the commission in this regard may be amended at any later stage of the proceedings.

2. The secretary of the commission shall not have the nationality of any of the parties, shall not reside or have resided habitually in their territory and shall not be or have been in the service of any of them.

3. Except as provided in article 28, paragraph 1, the commission shall not hear statements by the representative or counsel of a party without having given the other party the opportunity to be represented at the hearing in question.

Article 23

1. The parties shall facilitate the commission's work and, in particular, shall do everything possible to provide it with whatever documents and information may be relevant.

2. The commission shall accept any request by the parties that persons whose testimony they consider necessary or useful be heard, that experts be consulted or that local investigations be conducted. It may, however, in any case in which it considers it neither necessary nor useful to accept such a request, ask the party making the request to reconsider it.

3. The parties shall use the means available to them to enable the commission to enter their territory and, in accordance with their laws, to convoke and hear witnesses or experts and visit any part of their territory to conduct local investigations. Articles 19 to 29 of the Hague Convention 1/ for the Pacific Settlement of International Disputes of 18 October 1907 shall apply in such cases.

Article 24

If the commission establishes that the parties disagree on issues of fact, or considers it necessary or useful to clarify facts which the parties do not seem to have taken into account, it may, motu proprio, consult experts, conduct local investigations or question witnesses. In such cases, article 23, paragraph 3, shall apply. Before using the powers conferred by the present article with regard to facts which the parties do not seem to have taken into account, the commission shall consult the parties.

Article 25

The commission may propose to the parties that they jointly appoint expert advisers to assist them in the consideration of technical aspects of the dispute. If the proposal is accepted, its implementation shall be conditional upon the expert advisers being appointed by the parties by mutual agreement and accepted by the commission and upon the parties fixing the emoluments of the expert advisers.

Article 26

If the commission is unable to reach unanimous agreement, it may take its decisions by a majority of votes of its members without being required to indicate the number of votes. Except in matters of procedure, the presence of all members shall be required in order for a decision to be valid.

1/ Carnegie Endowment for International Peace, The Hague Conventions and Declarations of 1899-1907, New York, Oxford University Press, 1915, pp. 41-81.

Article 27

1. The commission shall meet at United Nations Headquarters.

2. The commission may, at any time, request the Secretary-General of the United Nations for advice or assistance with regard to the administrative and procedural aspects of its work.

Conclusion of the commission's work

Article 28

1. On concluding its consideration of the dispute, the commission shall define the terms of settlement which are likely to be acceptable to the parties, unless the dispute involves issues of fact only. In this connection, the commission may hold an exchange of views with the representatives of the parties, who may be heard jointly or separately.

2. Once the proposed terms of settlement have been drawn up, they shall be communicated by the chairman of the commission in a report to the representatives of the parties, with a request that the representatives inform the commission, within a given period, whether the parties accept them. The chairman may include in his report the reasons which, in the commission's view, might prompt the parties to accept the proposed terms of settlement. The chairman shall refrain in his report from presenting any final conclusions with regard to facts or from ruling formally on issues of law, unless the parties have jointly asked the commission to do so.

3. If the dispute involves issues of fact only, the chairman shall hand over to the representatives of the parties, once it is complete, a report setting forth the commission's findings in that regard. The proceedings shall be concluded when his report is handed over.

Article 29

If the parties accept the terms of settlement proposed by the commission, a document shall be drawn up setting forth those terms. The document shall be signed by the chairman and the secretary. A copy signed by the secretary shall be provided to each party, and this shall conclude the proceedings.

Article 30

1. If the terms of settlement are not accepted by both parties and the latter do not wish further efforts to be made to reach agreement on different terms, a document shall be drawn up as stipulated in article 29, but omitting the proposed terms and indicating that the parties were unable to accept them and do not wish further efforts to be made to reach agreement on different

terms. The proceedings shall be concluded when each party has received a copy of the document signed by the secretary.

2. If the terms of settlement are not accepted by both parties but the latter wish efforts to reach agreement on different terms to continue, new proceedings shall be initiated, to which all the provisions of chapters VII and VIII of these rules used in the first proceedings shall apply, except that it shall not be necessary to appoint a new secretary and, if the commission has no objection, the parties may, with respect to the new proceedings, reduce by mutual agreement the time-limit mentioned in article 31.

Article 31

Without prejudice to the right of the parties, acting by mutual agreement, and of the commission, to extend the relevant time-limit and the possible application of article 32, paragraph 2, or article 45, the commission shall conclude its work within three months from the date on which, in accordance with article 22, paragraph 1, the initial statements of the parties were made, if it consists of three members, and within five months of that date if it consists of five members.

Secrecy of the commission's work and of the documents involved

Article 32

1. The commission's meetings shall be closed. Members of the commission and its expert advisers, together with representatives, counsel and experts, and the secretary and secretariat staff, shall refrain from divulging any documents or statements, or any communication concerning the progress of the proceedings, without the prior approval of both representatives.

2. If any indiscretion occurs during the proceedings, the commission may determine its possible effect on the continuation of such proceedings.

Article 33

Except as provided in articles 29 and 30, no decision, statement or communication concerning the substance of the dispute shall be reflected in the minutes of the commission's meetings at which one or both parties were represented.

Article 34

1. Certified copies of the minutes of the commission's meetings and of the annexes thereto shall be provided to the representatives through the secretary of the commission, except in the case of the minutes of meetings of the

commission to which neither of the parties were invited; the parties shall not receive copies of the minutes of those meetings.

2. Originals of the minutes of the commission's meetings to which neither of the parties were invited and copies of those minutes in the possession of the secretariat at the conclusion of the proceedings shall be destroyed at that time by the secretary.

3. Upon conclusion of the proceedings the secretary shall destroy all originals or copies of any written materials submitted in accordance with article 38 that are in his possession.

4. A certified copy of any document submitted by a party as evidence shall be provided to the other party.

5. If a party submits an original document as evidence, it shall be entitled to have that document returned to it; a certified copy of the document shall remain in the possession of the secretariat.

6. The parties shall receive certified copies of the records of evidence drawn from experts' reports, investigations and the questioning of witnesses.

Article 35

Except with regard to evidence drawn from experts' reports, investigations and the questioning of witnesses and documentary evidence which the parties may submit in any judicial or arbitral proceedings held after the conclusion of the conciliation proceedings, the obligation to respect the secrecy of the proceedings and of the deliberations shall remain in effect for the parties and for members of the commission, expert advisers and secretariat staff after the proceedings are concluded and shall extend to the terms of settlement, whether accepted or not, and to any proposals made, whether accepted or not. Except for the documents referred to in article 32, paragraph 1, no document shall be communicated to the public before the conclusion of the proceedings. Upon conclusion of the proceedings, the parties may, by mutual agreement, make available to the public all or some of the documents or authorize the publication of all or some of them.

Article 36

Upon conclusion of the proceedings, the chairman of the commission shall deliver the documents in the possession of the secretariat of the commission to the Secretary-General of the United Nations, who shall preserve their secrecy within the limits indicated above.

CHAPTER VIII

RULES APPLICABLE TO ALL CONCILIATION PROCEEDINGS CONDUCTED IN ACCORDANCE WITH THESE RULES

Article 37

No admission or proposal made or view expressed during the conciliation proceedings by one of the parties, the commission, a member of the commission or the sole conciliator, as the case may be, shall be considered to prejudge or in any way affect the rights or claims of any of the parties should the proceedings fail. Likewise, a party's acceptance of a proposal or terms of settlement in no way implies acceptance by that party of the arguments of law or of fact on which the proposal or terms of settlement may be based.

Article 38

1. Any of the parties to conciliation proceedings governed by these rules may provide the sole concilator or the commission, as the case may be, with comments on situations or facts relating to the dispute and on arguments submitted by the other party, on the understanding that the origin of the comments shall not be revealed to the latter.

2. Materials in writing submitted in accordance with this article shall not have any evidentiary effect if it affirms or refutes facts.

Article 39

The parties undertake that no conciliator or expert adviser who takes part in proceedings conducted in conformity with these rules shall act as a judge ad hoc, arbitrator, representative, counsel or expert of a party in any arbitral or judicial proceedings in respect of the dispute that was the subject of the conciliation proceedings. The parties also undertake not to present a conciliator or expert adviser as a witness or expert in any such proceedings.

Article 40

Each party may at any time, at its own initiative or at the initiative of the sole conciliator or the commission, as the case may be, make proposals for the settlement of the dispute. Any proposal made in accordance with this article shall be communicated immediately to the sole conciliator or to the commission, as the case may be.

Article 41

At any stage of the conciliation proceedings, the sole conciliator or the commission, as the case may be, may recommend any provisional measure which should be taken to preserve the corresponding rights of a party.

Article 42

At any stage of the proceedings, the sole conciliator or the commission, as the case may be, may draw the attention of the parties to any measures which might facilitate an amicable settlement.

Article 43

Neither of the parties shall initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of the dispute which is the subject of the conciliation proceedings. Each party may, however, initiate arbitral or judicial proceedings where such proceedings are necessary for preserving its rights.

Article 44

The parties shall refrain from any measures which might have an adverse effect on the terms of settlement proposed by the sole conciliator or the commission, as the case may be, until those terms have been explicitly rejected by both or one of the parties. The parties shall also, in general, refrain from any measure which might aggravate or exacerbate the dispute.

Article 45

If the sole conciliator or the commission, as the case may be, finds one or both of the parties to be systematically and persistently refraining from extending the co-operation necessary for the satisfactory progress of the conciliation proceedings, impeding those proceedings or violating provisions of these rules, the conciliator or the commission may terminate the proceedings without proposing terms of settlement or, in the case of a dispute involving issues of fact only, without formulating findings in that regard. If the sole conciliator or the commission, as the case may be, makes use of this power, the conciliator or the commission shall communicate to the parties in writing, in a thorough and precise manner, the reasons why this step has been taken.

Article 46

The sole conciliator or, if the conciliation proceedings are conducted by commission, each member of the commission shall receive emoluments in an amount and on terms agreed by the parties who may, if they so wish, request the opinion of the Secretary-General of the United Nations on this matter. The emoluments and the terms of their payment must be fixed before the conciliators are appointed and be communicated to them before they take up office. The same rules apply to the emoluments of the secretary of the commission and any staff he recruits.

Article 47

The costs of the conciliation proceedings, including those occasioned by any investigations agreed upon by a commission motu proprio and the emoluments of expert advisers appointed in accordance with article 25, shall be borne by the parties in equal shares.

Article 48

The terms of settlement proposed by a sole conciliator or by a commission, as the case may be, shall in no way be binding on the parties with regard to their substance. They shall be simply recommendations submitted to the parties for consideration in order to facilitate an amicable settlement of the dispute. The parties nevertheless undertake to study them carefully and objectively. If one of the parties rejects terms of settlement which the other party accepts, it shall inform the latter, in writing, of the reasons why it could not accept them.

Annex II

EXPLANATORY COMMENTARY ON THE APPLICATION OF THE UNITED NATIONS RULES FOR THE CONCILIATION OF DISPUTES BETWEEN STATES

1. The rules in annex I are a model set of norms which States between whom a dispute has arisen can adopt either through a bilateral agreement simply referring to the rules, if they wish to apply them without amendment, or otherwise through a bilateral agreement adopting an amended version of the rules. The rules are sufficiently broad to serve as a basis for conciliation proceedings without it being necessary to incorporate additional norms in them.

2. It is possible that States wishing to set up an ad hoc conciliation mechanism to assist them in settling a dispute between them may be parties to a bilateral or multilateral convention which requires them to resort to conciliation to settle disputes arising between them.

3. If the convention is bilateral, there is of course nothing to prevent the States from using the rules instead of the convention, without amending the rules, if the convention provides for ad hoc conciliation, in other words, if there is no pre-established conciliation body. If such a body does exist, they could, if they prefer to apply the rules rather than the convention establishing such a body, apply the rules with the necessary amendments so that the pre-established commission can handle the dispute.

4. If the pre-existing convention is multilateral, the States may act as indicated in the preceding paragraph, but taking into account, if the rules, with the agreed amendments, are not fully compatible with the conciliation provisions in the convention, that article 41 of the Vienna Convention on the Law of Treaties 2/ requires them to inform States parties to the convention in question of the amendments that they have made in the light of their decision to apply the rules. This requirement may be fulfilled through the depositary of the convention.

5. If the dispute prompting recourse to the rules comes within the terms of a clause of a bilateral or multilateral convention requiring the parties to resort to arbitration or to the International Court of Justice, or if the latter has competence to hear the dispute by virtue of declarations made under Article 36, paragraph 2, of its Statute, States may normally agree that the dispute will none the less first be referred to conciliation on the basis of the rules, and that recourse to arbitration or to the Court will be required only if such conciliation proceedings fail.

6. The provisions of article 43 of the rules are relevant to the comments in the preceding paragraph.

7. It should be noted that the conciliation commissions, which enjoy far-reaching powers of investigation under articles 23 and 24, may serve as investigatory commissions in any case where the dispute involves issues of fact only. In such a case, the sole purpose of the proceedings will be to investigate the facts (see art. 28, para. 3).

8. The procedure involving conciliation by a sole conciliator is far more flexible and informal than the procedure involving the commissions. The rules do not envisage the application of the former type of conciliation to disputes on issues of fact only. Moreover, inasmuch as neither paragraph 3 of article 23 nor article 24 applies to the sole conciliator, that procedure is often not as well suited to the settlement of disputes on issues of fact as the procedure involving commissions. It should also be noted that because of its flexible and informal nature, the procedure involving a sole conciliator is somewhat similar to mediation.

2/ United Nations, Treaty Series, vol. 1155, No. 18232.

9. Unlike what happens in the case of five-member commissions, members appointed individually by the parties are in the majority on three-member commissions. If the dispute has caused serious uneasiness between the parties, that factor could put the chairman of the commission in an awkward position. Accordingly, establishing a three-member commission would appear to be advisable only when, despite the dispute, relations between the parties are still relatively amicable.

10. If - as happens, for example, when injury is sustained by a national of one party in the territory of the other - the dispute comes within the purview of the courts of one of the parties, it would be better not to initiate conciliation proceedings until that party's highest judicial authority has issued a final ruling on the matter.

6. At the 43rd meeting, on 16 November 1990, the representative of Guatemala introduced a draft decision (A/C.6/45/L.9) proposed by his delegation.

7. At the same meeting, the Committee adopted draft decision A/C.6/45/L.9 without a vote (see para. 8).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly, the adoption of the following draft decision:

United Nations rules for the conciliation of disputes between States

The General Assembly, taking into account the document relating to the draft conciliation rules of the United Nations 3/ submitted to the General Assembly at its forty-fifth session, decides:

(a) To request the Secretary-General to circulate that document, together with the amendments submitted during the current session, to all Member States, organs and competent specialized agencies of the United Nations, regional intergovernmental organizations and international legal bodies interested in the draft conciliation rules and to invite them to send to him their observations, comments and suggestions thereon;

(b) Also to request the Secretary-General to submit a report containing the replies received to the General Assembly at its forty-sixth session;

(c) That the question of the rules for the conciliation of disputes between States should be examined as part of the programme of the United Nations Decade of International Law and in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, as appropriate.

3/ A/45/143 and Corr.1.

UNITED
NATIONS

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General Assembly Security Council

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A/45/743
S/21959
23 November 1990
ENGLISH
ORIGINAL: SPANISH

GENERAL ASSEMBLY
Forty-fifth session
Agenda item 28
THE SITUATION IN CENTRAL AMERICA:
THREATS TO INTERNATIONAL PEACE AND
SECURITY AND PEACE INITIATIVES

SECURITY COUNCIL
Forty-fifth year

Letter dated 23 November 1990 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General

On instructions from my Government, I would be grateful if you would have this letter and the attached text circulated as an official document of the General Assembly, under agenda item 28, and of the Security Council. The document contains the declaration of the Group of Three on the events in the Republic of El Salvador, issued at the conclusion of the meeting of the Foreign Ministers of Colombia, Venezuela and Mexico in Mexico City on 22 November 1990.

(Signed) Jorge MONTANO
Ambassador
Permanent Representative of Mexico
to the United Nations

ANNEX

Declaration of the Group of Three on the events in El Salvador, made in Tlatelolco on 22 November 1990

The Foreign Ministers of the Group of Three meeting in Mexico City hereby express their concern about the recent escalation of violence in their sister Republic of El Salvador beginning on 20 November 1990 and call for an immediate cessation of hostilities.

In addition, the Foreign Ministers of the Group of Three urge the parties to the conflict to return to the negotiation channels opened by the mechanisms made available to them by the international community and, in particular, by the Secretary-General of the United Nations, with whom the three countries are engaged in special co-operation on this matter.

Finally, the Foreign Ministers reiterate their confident hope that the parties to the conflict will fully assume their responsibility for restoring peace in El Salvador.

UNITED NATIONS

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General Assembly

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GENERAL

A/45/744
21 November 1990

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Forty-fifth session
Agenda item 88

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA

Report of the Third Committee

Rapporteur: Mr. Mario DE LEON (Philippines)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 21 September 1990, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa" and to allocate it to the Third Committee.

2. The Committee considered this item jointly with items 91, 98 and 103 at its 4th to 10th, 18th, 28th, 29th and 31st meetings, on 10 to 12, 15, 16 and 24 October and 1, 2 and 5 November 1990. An account of the Committee's general discussion of the item is contained in the relevant summary records (A/C.3/45/SR.4-10).

3. For its consideration of the item, the Committee had before it a note by the Secretary-General transmitting the updated report prepared by Mr. Ahmad M. Khalifa, Special Rapporteur, on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (A/45/552).

4. At the 3rd meeting, on 8 October 1990, the Under-Secretary-General for Human Rights made an introductory statement on the item. At its 6th meeting, the Committee also heard an introduction by the Special Rapporteur on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (see A/C.3/45/SR.3 and SR.6).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.3/45/L.4

5. At the 18th meeting, on 24 October, the representative of Sierra Leone, on behalf of the States Members of the United Nations that are members of the Group of African States, introduced a draft resolution (A/C.3/45/L.4) entitled "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa".

6. At the same meeting, the representative of Sierra Leone orally revised the draft resolution by inserting the words "the Commission on Human Rights, the Economic and Social Council and the Special Committee Against Apartheid" between the words "Minorities" and "may" in the penultimate line of operative paragraph 12.

7. At its 28th meeting, on 1 November, the Committee adopted the draft resolution as orally revised, by a recorded vote of 106 to 9, with 22 abstentions (see para. 9). The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brazil, Brunei Darrusalam, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Rwanda, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

Against: Belgium, France, Germany, Italy, Luxembourg, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland and United States of America.

Abstaining: Australia, Austria, Bulgaria, Canada, Czechoslovakia, Denmark, Finland, Greece, Hungary, Iceland, Ireland, Israel, Japan, Liechtenstein, Malta, New Zealand, Norway, Poland, Romania, Spain, Sweden and Turkey.

8. After the adoption of the draft resolution statements in explanation of vote were made by the representatives of the United States of America, Italy (on behalf of the States members of the European Community), Iceland (also on behalf of Denmark, Finland, Norway and Sweden), Canada, Japan and Turkey (see A/C.3/45/SR.28).

III. RECOMMENDATION OF THE THIRD COMMITTEE

9. The Third Committee recommends to the General Assembly the adoption of the following draft resolution:

Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa

The General Assembly,

Recalling its resolutions 39/15 of 23 November 1984, 41/95 of 4 December 1986 and 43/92 of 8 December 1988,

1. Expresses its appreciation to the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities for his updated report on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa; 1/

2. Expresses its thanks to all Governments and organizations that supplied the Special Rapporteur with information;

3. Welcomes with satisfaction Commission on Human Rights resolution 1990/22 of 27 February 1990, 2/ in which the Commission invited the Special Rapporteur:

(a) To continue to update, subject to annual review, the list of banks, transnational corporations and other organizations assisting the racist régime of South Africa, giving such details regarding enterprises listed as he may consider necessary and appropriate, including explanations of responses, if any, and to submit the updated report, through the Economic and Social Council, to the General Assembly at its forty-fifth session;

(b) To use all available material from other United Nations organs, Member States, specialized agencies and other relevant sources in order to indicate the volume, nature and adverse human consequences of the assistance given to the racist régime of South Africa;

1/ A/45/552, previously published as E/CN.4/Sub.2/1990/13 and Add.1.

2/ See Official Records of the Economic and Social Council, 1990, Supplement No. 2 (E/1990/22), chap. II, sect. A.

(c) To intensify direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid of the Secretariat, with a view to consolidating mutual co-operation in updating the report;

4. Calls upon all Governments:

(a) To co-operate with the Special Rapporteur in making the report even more accurate and informative;

(b) To disseminate the updated report and to give its contents the widest possible publicity;

5. Also calls upon all Governments and organizations to maintain sanctions against the racist régime of South Africa until the total dismantlement of the apartheid system has been achieved, in conformity with the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by the General Assembly in its resolution S-16/1 of 14 December 1989;

6. Invites the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-third session and the Commission on Human Rights at its forty-seventh session to consider the updated report;

7. Requests the Secretary-General, in accordance with General Assembly resolution 43/92, to make available to the Special Rapporteur two economists to help him to develop his analysis and documentation on specific cases of special importance;

8. Also requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in the exercise of his mandate, with a view to intensifying direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid, and to consolidating mutual co-operation in updating his report;

9. Further requests the Secretary-General to bring the updated report of the Special Rapporteur to the attention of Governments whose national financial institutions continue to deal with the régime of South Africa, and to call upon them to provide the Special Rapporteur with any information or comments they may wish to present on the matter;

10. Requests the Secretary-General to contact the Government of South Africa with a view to enabling the Special Rapporteur to undertake a visit to South Africa on special mission within the perspective of the next update of the present report;

11. Invites the Secretary-General to give the updated report of the Special Rapporteur the widest distribution and publicity as a United Nations publication;

12. Decides to examine at its forty-seventh session, as a matter of high priority, the question entitled "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist régime of South Africa", in the light of any recommendations which the

Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights, the Economic and Social Council and the Special Committee against Apartheid may wish to submit to it;

13. Requests that the Special Rapporteur submit his updated report to the General Assembly at its forty-seventh session.

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Forty-fifth session
Agenda item 89

EFFECTIVE IMPLEMENTATION OF THE UNITED NATIONS INSTRUMENTS ON HUMAN RIGHTS AND EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO SUCH INSTRUMENTS

Report of the Third Committee

Rapporteur: Mr. Mario DE LEON (Philippines)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 21 September 1990, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "Effective implementation of the United Nations instruments on human rights and effective functioning of bodies established pursuant to such instruments" and to allocate it to the Third Committee.

2. The Third Committee considered this item jointly with items 93, 97, 105, 106, 109 and 110 at its 35th to 42nd, 49th, 51st, 55th, 57th, 59th, 61st and 62nd meetings, on 7 to 9, 12 to 14, 21, 23 and 28 to 30 November, and 3 and 4 December 1990. An account of the Committee's general discussion of the item is contained in the relevant summary records (A/C.3/45/SR.35-42).

3. For its consideration of the item, the Committee had before it the following documentation:

(a) Note by the Secretariat on the developments relevant to the activities of the Centre for Human Rights (A/45/593);

(b) Note by the Secretary-General transmitting to the General Assembly the report of the third meeting of persons chairing the human rights treaty bodies convened pursuant to General Assembly resolution 44/135 of 15 December 1989 (A/45/636);

(c) Report of the Secretary-General on financing and staffing resources for the operations of treaty bodies (A/45/707);

(d) Letter dated 6 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/205-S/21236);

(e) Letter dated 9 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/207-S/21238);

(f) Letter dated 12 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/216-S/21248);

(g) Letter dated 18 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/222-S/21255);

(h) Letter dated 20 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/227-S/21260);

(i) Letter dated 23 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/230-S/21268);

(j) Letter dated 1 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/264-S/21283);

(k) Letter dated 2 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/265-S/21284);

(l) Letter dated 3 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/266-S/21285);

(m) Letter dated 4 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/267-S/21287);

(n) Letter dated 7 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/269-S/21288);

(o) Letter dated 8 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/270-S/21290);

(p) Letter dated 9 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/272-S/21293);

(q) Letter dated 16 May 1990 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General (A/45/280);

(r) Note by the Secretary-General transmitting a study by an independent expert on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations human rights instruments taking into account the conclusions and recommendations of the meeting of persons chairing the human rights treaty bodies (A/44/668).

4. At the 35th meeting, on 7 November, the Director of the Implementation of International Instruments and Procedures Branch of the Centre for Human Rights made an introductory statement on the item (see A/C.3/45/SR.35).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.3/45/L.50

5. At the 49th meeting, on 21 November, the representative of Canada, on behalf of Australia, Austria, Belgium, Canada, Costa Rica, Denmark, Finland, Germany, Hungary, Iceland, Italy, the Netherlands, New Zealand, Norway, the Philippines, Poland, Portugal, Sweden and Yugoslavia, introduced a draft resolution (A/C.3/45/L.50) entitled "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights". Subsequently, Saint Kitts and Nevis joined in sponsoring the draft resolution.

6. In introducing the draft resolution, the representative of Canada orally revised it by replacing operative paragraph 6, which read:

> "Encourages the Secretary-General and the States parties to the United Nations human rights instruments to proceed with the circulation to the various treaty bodies, as soon as possible, of the detailed reporting manual to assist States in the fulfilment of their reporting obligations;"

by the following text:

> "Encourages the Secretary-General to proceed with the circulation to the various States parties to the United Nations human rights instruments, as soon as possible, of the detailed reporting manual to assist States in the fulfilment of their reporting obligations;".

7. At the 55th meeting, on 28 November, the representative of Canada further revised operative paragraph 16 by replacing the word "meeting" with "meetings".

8. At the same meeting, the Committee adopted the draft resolution, as orally revised (see para. 9).

III. RECOMMENDATION OF THE THIRD COMMITTEE

9. The Third Committee recommends to the General Assembly the adoption of the following draft resolution:

Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

The General Assembly,

Recalling its resolution 44/135 of 15 December 1989, as well as its other relevant resolutions,

Taking note of Commission on Human Rights resolutions 1990/21 of 23 February 1990 and 1990/25 of 27 February 1990, 1/ and Economic and Social Council decision 1990/226 of 25 May 1990, by which the Council approved the recommendations of the Task Force on Computerization for computerizing the human rights treaty system,

Reaffirming that the effective implementation of United Nations instruments on human rights is of major importance to the efforts made by the Organization, pursuant to the Charter of the United Nations and to the Universal Declaration of Human Rights, 2/ to promote universal respect for and observance of human rights and fundamental freedoms,

Considering that the effective functioning of treaty bodies established pursuant to United Nations instruments on human rights is indispensable for the effective implementation of such instruments,

Reaffirming its responsibility to ensure the proper functioning of treaty bodies established pursuant to instruments adopted by the General Assembly and, in this connection, further reaffirming the importance of:

(a) Ensuring the effective functioning of systems of periodic reporting by States parties to these instruments;

(b) Securing sufficient financial resources to overcome existing difficulties with their effective functioning;

(c) Addressing questions of both reporting obligations and financial implications whenever elaborating any further instruments on human rights,

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1/ See Official Records of the Economic and Social Council, 1990, Supplement No. 2 (E/1990/22), chap. II, sect. A.

2/ Resolution 217 A (III).

Recognizing that the effective implementation of instruments on human rights not only enhances international accountability in relation to the promotion and protection of human rights, but also provides States parties with a valuable opportunity to review policies and programmes affecting the promotion and protection of human rights and to make any appropriate adjustments,

Expressing concern about the continuing and increasing backlog of reports on implementation by States parties of United Nations instruments on human rights and about delays in consideration of reports by the treaty bodies,

Taking note of the report of the Secretary-General 3/ on progress achieved in enhancing the effective functioning of the treaty bodies, pursuant, inter alia, to the conclusions and recommendations of the second meeting of persons chairing the human rights treaty bodies, held at Geneva from 10 to 14 October 1988, 4/

Taking note also of the conclusions and recommendations of the third meeting of persons chairing the human rights treaty bodies, held at Geneva from 1 to 5 October 1990, 5/

Taking note with appreciation of the study 6/ on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations instruments on human rights, prepared by an independent expert pursuant to the above-mentioned resolutions,

1. Endorses the conclusions and recommendations of the meetings of persons chairing the human rights treaty bodies aimed at streamlining, rationalizing and otherwise improving reporting procedures, as well as the continuing efforts in this connection by the treaty bodies and the Secretary-General within their respective spheres of competence;

2. Expresses its satisfaction with the study by the independent expert on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations instruments on human rights, which contains several recommendations on reporting and monitoring procedures, servicing and financing of supervisory bodies and long-term approaches to human rights standard-setting and implementation mechanisms, and which was presented to the Commission on Human Rights for detailed consideration at its forty-sixth session;

3/ A/44/539.

4/ See A/44/98, annex.

5/ See A/45/636, annex.

6/ See A/44/668, annex.

3. Endorses the recommendations 7/ of the Task Force on Computerization appointed by the Secretary-General to prepare a study on computerizing the work of the treaty-monitoring bodies, with a view to increasing efficiency and facilitating compliance by States parties with their reporting obligations and the examination of reports by the treaty bodies;

4. Requests the Secretary-General to give high priority to establishing a computerized data base to improve the efficiency and effectiveness of the functioning of the treaty bodies;

5. Takes note of the report 8/ of the Secretary-General to the Committee on Economic, Social and Cultural Rights showing the extent of overlapping issues dealt with in international instruments on human rights, which will assist efforts to reduce, as appropriate, duplication in the supervisory bodies of issues raised with respect to any given State party, and asks the Secretary-General to draw the report to the attention of the other treaty bodies;

6. Encourages the Secretary-General to proceed with the circulation to the various States parties to the United Nations human rights instruments, as soon as possible, of the detailed reporting manual to assist States in the fulfilment of their reporting obligations;

7. Again urges States parties to make every effort to meet their reporting obligations and to contribute, individually and through meetings of States parties, to identifying and implementing ways of further streamlining and improving reporting procedures as well as enhancing co-ordination and information flow between the treaty bodies and with relevant United Nations bodies, including specialized agencies;

8. Welcomes the emphasis placed by the meeting of persons chairing the human rights treaty bodies and by the Commission on Human Rights on the importance of technical assistance and advisory services and, further to this end:

(a) Endorses the request of the Commission that the Secretary-General report regularly to the Commission on possible technical assistance projects identified by the treaty bodies;

(b) Invites the treaty bodies to give priority attention to identifying such possibilities in the regular course of their work of reviewing the periodic reports of States parties;

9. Acknowledges the recommendations of the meeting of persons chairing the human rights treaty bodies on the need to ensure financing and adequate staffing resources for the operations of the treaty bodies and, with this in mind:

7/ E/CN.4/1990/39, annex.

8/ E/C.12/1989/3.

(a) Reiterates its request that the Secretary-General review the need for adequate staffing resources in regard to the various treaty bodies;

(b) Requests that the Secretary-General report on this question to the Commission on Human Rights at its forty-seventh session and to the General Assembly at its forty-sixth session;

10. Calls upon all States parties to fulfil without delay and in full their financial obligations under the relevant instruments on human rights, and requests the Secretary-General to consider ways and means of strengthening collection procedures and making them more effective;

11. Welcomes the fact that at its forty-sixth session the Commission on Human Rights noted that the General Assembly could consider alleviating the financial difficulties of treaty bodies, inter alia, by the temporary allocation of necessary funds by way of advances out of the regular budget of the United Nations, which would be reimbursed from the contributions received within the same budget year, a procedure to be repeated until such time as a permanent solution to such difficulties can be implemented;

12. Requests the Secretary-General, as a matter of priority, to consider administrative and budgetary measures to alleviate the current financial difficulties of the treaty bodies and thus guarantee their regular functioning and to report on these measures to the Commission on Human Rights at its forty-seventh session;

13. Emphasizes that any administrative and budgetary measures shall be provided without prejudice to the duty of States parties under United Nations human rights instruments to meet all their financial obligations pursuant to such instruments;

14. Notes with interest that the meeting of persons chairing the human rights treaty bodies recommended in October 1990 that the General Assembly take appropriate measures to ensure the financing of each of the committees from the United Nations regular budget;

15. Invites the persons chairing the human rights treaty bodies to maintain communication and dialogue with each other on common issues and problems and, to this end, requests the Secretary-General, within existing resources, to convene a further meeting of the persons chairing the treaty bodies at a time to be established;

16. Decides to give priority consideration at its forty-sixth session to the conclusions and recommendations of the meetings of persons chairing treaty bodies, in the light of the deliberations of the Commission on Human Rights, under the item entitled "Effective implementation of United Nations instruments on human rights and effective functioning of bodies established pursuant to such instruments".

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NATIONS

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A/45/746
21 November 1990

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Forty-fifth session
Agenda item 90

WORLD SOCIAL SITUATION

Report of the Third Committee

Rapporteur: Mr. Mario DE LEON (Philippines)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 21 September 1990, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "World social situation" and to allocate it to the Third Committee.

2. The Committee considered the item jointly with items 92, 96, 99 and 104 at its 11th to 17th, 25th and 37th meetings, on 17 to 23 and 30 October and 9 November 1990. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/45/SR.11-17, 25 and 37).

3. The Committee had before it the report of the Secretary-General containing the Supplement to the 1989 Report on the World Social Situation (A/45/137-E/1990/35).

4. At the 11th meeting, on 17 October, the Director-General of the United Nations Office at Vienna and the Director of the Social Development Division made introductory statements (see A/C.3/45/SR.11).

5. At the same meeting the Special Representative of the Secretary-General for the Promotion of the United Nations Decade of Disabled Persons made a statement (see A/C.3/45/SR.11).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.3/45/L.16

6. At the 25th meeting, on 30 October, the representative of the Ukrainian Soviet Socialist Republic introduced a draft resolution (A/C.3/45/L.16), entitled "Achievement of social justice", also sponsored by the Byelorussian Soviet Socialist Republic and Ecuador.

7. At its 37th meeting, on 9 November, the Committee adopted draft resolution A/C.3/45/L.16 without a vote (see para. 14, draft resolution I).

B. Draft resolutions A/C.3/45/L.18 and Rev.1

8. At the 25th meeting, the representative of Bolivia, on behalf of the States Members of the United Nations that are members of the Group of 77, introduced a draft resolution (A/C.3/45/L.18), entitled "World social situation". The draft resolution read as follows:

"The General Assembly,

"Recalling its resolutions 1392 (XIV) of 20 November 1959, 2542 (XXIV) of 11 December 1969, 40/98 and 40/100 of 13 December 1985, 42/49 of 30 November 1987, 43/113 of 8 December 1988 and 44/56 of 8 December 1989, as well as Economic and Social Council resolutions 1987/39, 1987/40, 1987/46 and 1987/52 of 28 May 1987, 1989/72 of 24 May 1989, 1989/113 of 28 July 1989 and 1990/28 of 24 May 1990,

"Bearing in mind the objective of improving the well-being of the world's population on the basis of the full and equal participation of all members of society in the process of development and the fair distribution to them of the benefits therefrom,

"Conscious that each country has the sovereign right freely to adopt the economic and social system that it deems the most appropriate and that each Government has the primary role of ensuring the social progress and well-being of the people,

"Convinced of the urgent need to eradicate policies and practices that hinder social progress, including racism and racial discrimination, in particular apartheid,

"Convinced also that the pace of development in the developing countries should be accelerated substantially in order to enable them to achieve that objective, especially in meeting the basic needs for food, housing, education, employment, health care and the struggle against scourges which endanger the health and well-being of their population,

"Deeply concerned about the worsening economic situation in many developing countries, particularly of the least developed countries, including the significant decline in living conditions, the persistence and increase of widespread poverty in a large number of countries and the decline of the main social and economic indicators of those countries,

"Bearing in mind the importance of the 1989 Report on the World Social Situation 1/ for increasing awareness of the advances made towards the goals of social progress and better standards of living, established in the Charter of the United Nations, as well as of the obstacles to further progress,

"Believing that there is a need for greater efforts by the United Nations system to study and disseminate data on the existing world social situation, particularly in regard to the developing countries,

"Taking note of the deliberations on the question of the world social situation by the Economic and Social Council at its first regular session of 1990, 2/

"Having considered the Supplement to the 1989 Report on the World Social Situation, 3/

"1. Notes with satisfaction that the Supplement to the 1989 Report on the World Social Situation takes into account the concerns and guidelines specified in General Assembly resolution 44/56 and in Economic and Social Council resolution 1989/72;

"2. Recalls the 1989 Report on the World Social Situation, in particular the information on the critical situation in Africa, contained in the annex to the report;

"3. Notes with satisfaction the increasing awareness of the importance of formulating policy measures at all levels based on the interrelationships between economic growth, human development and social progress in the achievement of overall development;

"4. Notes with deep concern the continuing deterioration of the economic and social situation in many developing countries, in particular in the least developed countries, whose numbers have increased over the years, as well as in the low-income countries;

"1/ United Nations publication, Sales No. E.89.IV.1.

"2/ See Official Records of the General Assembly, Forty-fifth Session, Supplement No. 3 (A/45/3/Rev.1).

"3/ A/45/137-E/1990/35.

"5. Notes also with deep concern the substantial weakening of the position of the developing countries in international trade and finance worsened by sharp fluctuations in exchange rates, high real rates of interest, a long-term downward trend in commodity prices, a serious deterioration in the terms of trade of developing countries, increased protectionist pressures, the net transfer of resources from developing countries, and the serious debt burden;

"6. Reaffirms the principles and objectives of the Declaration on Social Progress and Development 4/ and calls for their effective realization as a means of attaining a more equitable world social situation;

"7. Calls upon all Member States to promote economic development and social progress by the formulation and implementation of an interrelated set of policy measures to achieve the goals and objectives established within the framework of national plans and priorities for employment, education, health, nutrition, housing facilities, crime prevention, the well-being of children, equal opportunities for the disabled and the aging, full participation of youth in the development process and full integration and participation of women in development;

"8. Requests the Secretary-General to continue monitoring the world social situation in depth on a regular basis and to submit, in accordance with paragraph 10 of General Assembly resolution 44/56, an interim report to the General Assembly at its forty-sixth session, through the Commission of Social Development and the Economic and Social Council, and a full report in 1993;

"9. Reaffirms the request of the Economic and Social Council, in paragraph 2 of its resolution 1990/28, for the Secretary-General to take into account, in preparing the interim report, paragraph 4 of Council resolution 1989/72;

"10. Further reaffirms the request made in paragraph 3 of Council resolution 1989/72 regarding a report of the Secretary-General to the General Assembly at its forty-sixth session, through the Economic and Social Council, on the work being done within the United Nations system to improve and further develop quantitative and qualitative indicators that measure accurately the social condition and the standard of living of the world's population, particularly in developing countries;

"11. Requests the Secretary-General to make the necessary arrangements to ensure a wider dissemination of the reports of the world social situation;

"12. Invites the organs, organizations and bodies of the United Nations system to co-operate fully with the Secretary-General in the preparation of future reports by making available all relevant information pertaining to

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"4/ Resolution 2542 (XXIV).

their respective areas of competence and, in this connection, requests the Secretary-General to convene an Inter-Agency Meeting before the preparation of the report;

"13. Decides to include the item entitled 'World social situation' in the provisional agenda of its forty-sixth session for the purpose of considering, inter alia, the interim report, as well as the report mentioned on paragraph 10 above, and in the provisional agenda of its forty-eighth session for the purpose of considering the next full report in 1993."

9. At the 37th meeting, the Secretary of the Committee made a statement in the course of which she corrected draft resolution A/C.3/45/L.18/Rev.1 by deleting at the end of operative paragraph 4, the words "as well as in the low income countries".

10. At the same meeting, the representative of Bolivia, on behalf of the States Members of the United Nations that are members of the Group of 77, introduced a revised draft resolution (A/C.3/45/L.18/Rev.1).

11. Before the adoption of the draft resolution, the representative of the United States of America made a statement.

12. Also at the same meeting, the Committee adopted draft resolution A/C.3/45/L.18/Rev.1 by a recorded vote of 112 to 1, with 4 abstentions (see para. 14, draft resolution II). The voting was as follows: 1/

In favour: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Barbados, Belgium, Belize, Bolivia, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, Ghana, Greece, Guinea, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Myanmar, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Saudi Arabia, Sierra Leone, Singapore, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Thailand, Togo, Trinidad and Tobago,

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1/ The representatives of Angola, the Bahamas, Benin, Botswana, the Central African Republic, Guinea-Bissau, Madagascar, Mozambique, Namibia, Uruguay, Zaire and Zambia subsequently indicated that, had they been present, they would have voted in favour of the draft resolution.

Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Venezuela, Viet Nam, Yemen, Yugoslavia and Zimbabwe.

Against: United States of America.

Abstaining: Germany, Israel, Japan and United Kingdom of Great Britain and Northern Ireland.

13. After the adoption of the draft resolution, the representatives of Germany, the United Kingdom of Great Britain and Northern Ireland and Japan made statements.

III. RECOMMENDATIONS OF THE THIRD COMMITTEE

14. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Achievement of social justice

The General Assembly,

Recalling its resolutions 42/49 of 30 November 1987 and 44/55 of 8 December 1989, as well as Economic and Social Council resolutions 1988/46 of 27 May 1988, 1989/71 of 24 May 1989 and 1990/25 of 24 May 1990,

Recalling also the pledge made by States Members of the United Nations in the Charter to take joint and separate action to promote higher standards of living, full employment and conditions of economic and social progress and development,

Recognizing that more extensive international and regional co-operation is important for promoting social progress at the national level,

Bearing in mind that, in accordance with the Declaration on Social Progress and Development, 2/ social progress and development shall be founded on respect for the dignity and value of the human person and shall ensure the promotion of human rights and social justice,

Mindful of the Guiding Principles for Developmental Social Welfare Policies and Programmes in the Near Future, 3/ the Nairobi Forward-looking Strategies for

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2/ Resolution 2542 (XXIV).

3/ E/CONF.80/10, chap. III.

the Advancement of Women, 4/ the World Programme of Action concerning Disabled Persons 5/ and the International Plan of Action on Aging, 6/

Persuaded of the importance of taking measures to ensure co-ordination within the United Nations system in order to develop a comprehensive approach to developmental social welfare, including better integrated and mutually supportive economic and social development policies, aimed at the achievement of social justice,

1. Confirms that social justice is one of the most important goals of social progress;

2. Reaffirms that the common purpose of the international community must be to forge from varied economic, social and political conditions a global environment of sustained development, full enjoyment of human rights and fundamental freedoms, and social justice and peace;

3. Reaffirms the importance of co-operation among countries in promoting a climate conducive to the achievement by individual countries of the goals of development and social justice and progress;

4. Considers that such co-operation and its promotion should continue to be a major focus of activities of the United Nations, in accordance with the principles of the Charter of the United Nations;

5. Calls upon Member States, in elaborating policies in the field of social development and the social situation of all population groups, to take into consideration the importance of achieving social justice for all;

6. Recommends that the Secretary-General, in preparing studies and reports on social problems, should examine the question of social justice and ways in which it could be achieved;

7. Requests the Commission for Social Development, at its next regular session, to consider the question of achieving social justice.

4/ Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

5/ A/37/351/Add.1 and Corr.1, annex, sect. VIII, recommendation 1 (IV).

6/ See Report of the World Assembly on Aging, Vienna, 26 July-6 August 1982 (United Nations publication, Sales No. E.82.I.16), chap. VI, sect. A.

DRAFT RESOLUTION II

World social situation

The General Assembly,

Recalling its resolutions 1392 (XIV) of 20 November 1959, 2542 (XXIV) of 11 December 1969, 40/98 and 40/100 of 13 December 1985, 42/49 of 30 November 1987, 43/113 of 8 December 1988 and 44/56 of 8 December 1989, as well as Economic and Social Council resolutions 1987/39, 1987/40, 1987/46 and 1987/52 of 28 May 1987, 1989/72 of 24 May 1989, and 1990/28 of 24 May 1990, and Council decision 1989/113 of 28 July 1989,

Bearing in mind the objective of improving the well-being of the world's population on the basis of the full and equal participation of all members of society in the process of development and the fair distribution to them of the benefits therefrom,

Conscious that each country has the sovereign right freely to adopt the economic and social system that it deems the most appropriate and that each Government has the primary responsibility of ensuring the social progress and well-being of the people,

Convinced of the urgent need to eradicate policies and practices that hinder social progress, including racism and racial discrimination, in particular apartheid,

Convinced also that the pace of development in the developing countries should be accelerated substantially in order to enable them to achieve that objective, especially in meeting the basic needs for food, housing, education, employment and health care and the struggle against scourges which endanger the health and well-being of their population,

Deeply concerned about the worsening economic situation in many developing countries, particularly in the least developed countries, as evidenced by the significant decline in living conditions, the persistence and increase of widespread poverty in a large number of countries and the decline of the main social and economic indicators of those countries,

Bearing in mind the importance of the 1989 Report on the World Social Situation 7/ for increasing awareness of the advances made towards the goals of social progress and better standards of living, established in the Charter of the United Nations, as well as of the obstacles to further progress,

Believing that there is a need for greater efforts by the United Nations system to study and disseminate data on the existing world social situation, particularly in regard to the developing countries,

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7/ United Nations publication, Sales No. E.89.IV.1.

Taking note of the deliberations on the question of the world social situation by the Economic and Social Council at its first regular session of 1990, 8/

Having considered the Supplement to the 1989 Report on the World Social Situation, 9/

1. Notes with satisfaction that the Supplement to the 1989 Report on the World Social Situation takes into account the concerns and guidelines specified in General Assembly resolution 44/56 and in Economic and Social Council resolution 1989/72;

2. Takes note of the 1989 Report on the World Social Situation, in particular the information on the critical situation in Africa contained in the annex to the report;

3. Notes with satisfaction the increasing awareness of the importance of formulating policy measures at all levels based on the interrelationships between economic growth, human development and social progress in the achievement of overall development;

4. Notes with deep concern the continuing deterioration of the economic and social situation in many developing countries, in particular in the least developed countries, whose numbers have increased over the years;

5. Notes also with deep concern the substantial weakening of the overall position of the developing countries in international trade and finance, which has been worsened by a long-term downward trend in commodity prices, a serious deterioration in the terms of trade, the net transfer of resources from developing countries, protectionism and the serious debt burden, combined with high real interest rates;

6. Reaffirms the commitments and policies for international development co-operation as set out in the Declaration on International Economic Co-operation, in particular the Revitalization of Economic Growth and Development of the Developing Countries, 10/ adopted by the General Assembly at its eighteenth special session;

7. Reaffirms the principles and objectives of the Declaration on Social Progress and Development 11/ and calls for their effective realization as a means of attaining a more equitable world social situation;

8/ See Official Records of the General Assembly, Forty-fifth Session, Supplement No. 3 (A/45/3/Rev.1).

9/ A/45/137-E/1990/35.

10/ Resolution S-18/3.

11/ Resolution 2542 (XXIV).

8. Calls upon all Member States to promote economic development and social progress by the formulation and implementation of an interrelated set of policy measures to achieve the goals and objectives established within the framework of national plans and priorities for employment, education, health, nutrition, housing facilities, crime prevention, the well-being of children, equal opportunities for the disabled and the aging, full participation of youth in the development process and full integration and participation of women in development;

9. Requests the Secretary-General to continue monitoring the world social situation in depth on a regular basis and to submit, in accordance with paragraph 10 of resolution 44/56, an interim report to the General Assembly at its forty-sixth session, through the Commission of Social Development and the Economic and Social Council, and a full report in 1993;

10. Endorses the request of the Economic and Social Council, in paragraph 2 of its resolution 1990/28, that the Secretary-General take into account, in preparing the interim report, paragraph 4 of Council resolution 1989/72;

11. Also endorses the request made in paragraph 3 of Council resolution 1989/72 regarding the submission of a report of the Secretary-General to the General Assembly at its forty-sixth session, through the Economic and Social Council, on the work being done within the United Nations system to improve and further develop quantitative and qualitative indicators that measure accurately the social condition and the standard of living of the world's population, particularly in developing countries;

12. Requests the Secretary-General to make the necessary arrangements to ensure the wider dissemination of the reports of the world social situation;

13. Invites the organs, organizations and bodies of the United Nations system to co-operate fully with the Secretary-General in the preparation of future reports by making available all relevant information pertaining to their respective areas of competence and, in this connection, requests the Secretary-General to convene an inter-agency meeting before the preparation of the report;

14. Decides to include the item entitled "World social situation" in the provisional agenda of its forty-sixth session for the purpose of considering, inter alia, the interim report, as well as the report mentioned in paragraph 11 above, and in the provisional agenda of its forty-eighth session for the purpose of considering the next full report in 1993.

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Agenda item 91

ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Report of the Third Committee

Rapporteur: Mr. Mario de LEON (Philippines)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 21 September 1990, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "Elimination of all forms of racial discrimination" and to allocate it to the Third Committee.

2. The Committee considered this item jointly with items 88, 98 and 103 at its 4th to 10th, 18th, 28th, 29th and 31st meetings, on 10 to 12, 15, 16 and 24 October and 1, 2 and 5 November 1990. An account of the Committee's general discussion of the item is contained in the relevant summary records (A/C.3/45/SR.4-10).

3. For its consideration of the item, the Committee had before it the following documentation:

(a) Report of the Committee on the Elimination of Racial Discrimination; 1/

(b) Report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination (A/45/402);

(c) Report of the Secretary-General on the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid (A/45/406);

1/ A/45/18 (to be issued subsequently as Official Records of the General Assembly, Forty-fifth Session, Supplement No. 18).

(d) Report of the Secretary-General on the financial situation of the Committee on the Elimination of Racial Discrimination (A/45/579);

(e) Letter dated 23 February 1990 from the Permanent Representative of Yugoslavia to the United Nations addressed to the Secretary-General (A/45/139-S/21163);

(f) Letter dated 23 February 1990 from the Permanent Representative of Yugoslavia to the United Nations addressed to the Secretary-General (A/45/140-S/21164);

(g) Letter dated 20 March 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Hungary to the United Nations addressed to the Secretary-General (A/45/174);

(h) Letter dated 23 March 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Hungary to the United Nations addressed to the Secretary-General (A/45/178);

(i) Letter dated 4 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/202-S/21230);

(j) Letter dated 5 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/203-S/21231);

(k) Letter dated 12 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/216-S/21248);

(l) Letter dated 18 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/222-S/21255);

(m) Letter dated 19 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/225-S/21256);

(n) Letter dated 24 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/254-S/21271);

(o) Letter dated 2 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/265-S/21284);

(p) Letter dated 7 May 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/45/269-S/21288).

4. At the 3rd meeting, on 8 October 1990, the Director-General for Development and International Economic Co-operation and the Deputy Director of the Centre for Human Rights made introductory statements on the item (see A/C.3/45/SR.3).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.3/45/L.7

5. At the 18th meeting, on 24 October, the representative of Yugoslavia, on behalf of Algeria, Australia, Bangladesh, Bulgaria, Colombia, Cuba, Cyprus, Czechoslovakia, Denmark, Ecuador, Egypt, Ethiopia, Finland, France, Hungary, India, Jamaica, Mexico, Morocco, Nicaragua, Nigeria, Pakistan, Poland, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and Yugoslavia, introduced a draft resolution (A/C.3/45/L.7) entitled "Report of the Committee on the Elimination of Racial Discrimination". Subsequently, Senegal, Vanuatu and Venezuela joined in sponsoring the draft resolution.

6. At its 28th meeting, on 1 November, the Committee adopted the draft resolution without a vote (see para. 15, draft resolution I).

7. After the adoption of the draft resolution, statements were made by the representatives of the Netherlands, Israel and Germany.

B. Draft resolution A/C.3/45/L.8

8. At the 18th meeting, the representative of Belgium, on behalf of Algeria, Argentina, Australia, the Bahamas, Barbados, Belgium, Brazil, Bulgaria, Canada, Cuba, Cyprus, Czechoslovakia, Denmark, Egypt, France, Germany, Hungary, India, Italy, Luxembourg, Morocco, the Netherlands, New Zealand, Norway, Poland, Portugal, Rwanda, Senegal, Spain, Sweden, Togo, the Union of Soviet Socialist Republics, Uruguay and Yugoslavia, introduced a draft resolution (A/C.3/45/L.8) entitled "Status of the Convention on the Elimination of All Forms of Racial Discrimination". Subsequently, Botswana, Ecuador, Ethiopia and Vanuatu joined in sponsoring the draft resolution.

9. At its 29th meeting, on 2 November, the Committee adopted the draft resolution without a vote (see para. 15, draft resolution II).

C. Draft resolution A/C.3/45/L.11

10. At the 18th meeting, the representative of Zambia, on behalf of Algeria, Burkina Faso, Ethiopia, the Libyan Arab Jamahiriya, Mali, Namibia, the United Republic of Tanzania, Viet Nam, Zambia and Zimbabwe, introduced a draft resolution (A/C.3/45/L.11) entitled "Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid". Subsequently, Colombia, Cuba, the Islamic Republic of Iran, Yemen and Vanuatu joined in sponsoring the draft resolution.

11. At its 29th meeting, the Committee voted on the draft resolution as follows:

(a) The words "State terrorism" in the fifth preambular paragraph were retained by a recorded vote of 96 to 17, with 24 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Ethiopia, Fiji, Gabon, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Peru, Philippines, Qatar, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia and Zimbabwe.

Against: Belgium, Canada, Denmark, France, Germany, Greece, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, Portugal, Solomon Islands, Spain, United Kingdom of Great Britain and Northern Ireland and United States of America.

Abstaining: Australia, Austria, Bulgaria, Byelorussian Soviet Socialist Republic, Costa Rica, Czechoslovakia, El Salvador, Finland, Honduras, Hungary, Iceland, Liechtenstein, Malta, New Zealand, Norway, Papua New Guinea, Paraguay, Poland, Romania, Samoa, Sweden, Turkey, Ukrainian Soviet Socialist Republic and Union of Soviet Socialist Republics.

(b) The sixth preambular paragraph was retained by a recorded vote of 105 to 12, with 22 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal,

Nicaragua, Niger, Nigeria, Pakistan, Panama, Peru, Philippines, Qatar, Rwanda, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia and Zimbabwe.

Against: Belgium, Canada, France, Germany, Israel, Italy, Japan, Luxembourg, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland and United States of America.

Abstaining: Australia, Austria, Bulgaria, Czechoslovakia, Denmark, Finland, Gabon, Greece, Hungary, Iceland, Ireland, Liechtenstein, Malta, New Zealand, Norway, Papua New Guinea, Paraguay, Poland, Romania, Spain, Sweden and Turkey.

(c) Operative paragraph 5 was retained by a recorded vote of 105 to 10, with 22 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Qatar, Rwanda, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia and Zimbabwe.

Against: Belgium, Canada, France, Germany, Italy, Luxembourg, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland and United States of America.

Abstaining: Australia, Austria, Bulgaria, Czechoslovakia, Denmark, Finland, Greece, Hungary, Iceland, Ireland, Israel, Japan, Liechtenstein, Malta, New Zealand, Norway, Paraguay, Poland, Romania, Spain, Sweden and Turkey.

(d) Operative paragraph 8 was retained by a recorded vote of 106 to 14, with 18 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Qatar, Rwanda, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia and Zimbabwe.

Against: Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Netherlands, Portugal, Spain, United Kingdom of Great Britain and Northern Ireland and United States of America.

Abstaining: Australia, Austria, Bulgaria, Canada, Czechoslovakia, Finland, Hungary, Iceland, Israel, Liechtenstein, Malta, New Zealand, Norway, Paraguay, Poland, Romania, Sweden and Turkey.

12. At the same meeting, the representative of Italy, on behalf of the States members of the European Community, made a statement in explanation of vote before the vote on the draft resolution as a whole.

13. Also at the same meeting, the Committee adopted draft resolution A/C.3/45/L.11, as a whole, by a recorded vote of 109 to 1, with 30 abstentions (see para. 15, draft resolution III). The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives,

Mali, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Rwanda, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia and Zimbabwe.

Against: United States of America.

Abstaining: Australia, Austria, Belgium, Bulgaria, Canada, Czechoslovakia, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Liechtenstein, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Spain, Sweden, Turkey and United Kingdom of Great Britain and Northern Ireland.

14. After the adoption of the draft resolution, statements in explanation of vote after the vote were made by the representatives of the United States, Australia, Japan, New Zealand, Austria, Turkey, the Ukrainian Soviet Socialist Republic and Iceland (also on behalf of Finland, Norway and Sweden).

III. RECOMMENDATIONS OF THE THIRD COMMITTEE

15. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Report of the Committee on the Elimination of Racial Discrimination

The General Assembly,

Recalling its previous resolutions concerning the reports of the Committee on the Elimination of Racial Discrimination and its resolutions on the status of the International Convention on the Elimination of All Forms of Racial Discrimination, 2/ as well as its other relevant resolutions on the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, 3/

2/ Resolution 2106 A (XX), annex.

3/ Resolution 38/14.

Reiterating the importance of the International Convention on the Elimination of All Forms of Racial Discrimination, which is the most widely accepted human rights instrument adopted under the auspices of the United Nations,

Aware of the importance of the contributions of the Committee to the efforts of the United Nations to combat racism and all other forms of discrimination based on race, colour, descent or national or ethnic origin,

Reiterating once again the need to intensify the struggle for the elimination of racism and racial discrimination throughout the world, especially the elimination of the system of apartheid in South Africa,

Emphasizing the obligation of all States parties to the Convention to take legislative, judicial and other measures in order to secure full implementation of the provisions of the Convention,

Recalling the urgent appeals made by the Secretary-General, the General Assembly, the meetings of States parties to the Convention and the Committee itself to the States parties to honour their financial obligations under the Convention,

Gravely concerned that, despite those appeals and other efforts, the meeting schedule of the Committee has been interrupted and the proper functioning of the Committee continues to be affected,

Expressing its appreciation for the efforts of the members of the Committee to explore ways and means to overcome the Committee's current financial crisis,

Having considered the report of the Secretary-General on the question of financing the expenses of the members of the Committee, 4/

1. Expresses its profound concern at the fact that a number of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination have still not fulfilled their financial obligations, which led to the cancellation of the spring 1990 session of the Committee on the Elimination of Racial Discrimination;

2. Expresses once again its concern that such a situation led to a further delay in discharging the substantive obligations of the Committee under the Convention;

3. Commends the Committee for its work with regard to the implementation of the Convention and the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination;

4/ A/45/579.

4. Takes note with appreciation of the report of the Committee on the work of its thirty-eighth session; 5/

5. Calls upon States parties to fulfil their obligations under article 9, paragraph 1, of the Convention and to submit in due time their periodic reports on measures taken to implement the Convention;

6. Strongly appeals to all States parties, especially those in arrears, to fulfil their financial obligations under article 8, paragraph 6, of the Convention and to pay their outstanding contributions and, if possible, their contributions for 1991 before 1 February 1991, so as to enable the Committee to meet regularly;

7. Requests the Secretary-General to seek to obtain, at the earliest opportunity, the concurrence of the States parties to the Convention to the establishment of a "contingency reserve fund", as envisaged in Commission on Human Rights resolution 1990/25 of 27 February 1990; 6/

8. Invites the Secretary-General to explore other possibilities of establishing a more secure basis for future financing of all the costs of the Committee;

9. Requests the Secretary-General to invite those States parties which are in arrears to pay the amounts in arrears, and to report thereon to the General Assembly at its forty-sixth session;

10. Decides to consider at its forty-sixth session, under the item entitled "Elimination of all forms of racial discrimination", the report of the Secretary-General on the financial situation of the Committee and the report of the Committee.

DRAFT RESOLUTION II

Status of the International Convention on the Elimination of All Forms of Racial Discrimination

The General Assembly,

Recalling its relevant resolutions adopted since 1973, the most recent of which is resolution 43/95 of 8 December 1988,

Expressing its satisfaction at the entry into force, on 3 December 1982, of the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals under

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5/ A/45/18 (to be issued subsequently as Official Records of the General Assembly, Forty-fifth Session, Supplement No. 18).

6/ See Official Records of the Economic and Social Council, 1990, Supplement No. 2 (E/1990/22), chap. II, sect. A.

article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, 7/

1. Takes note of the report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination; 8/

2. Expresses its satisfaction at the number of States that have ratified the Convention or acceded thereto;

3. Reaffirms once again its conviction that ratification of or accession to the Convention on a universal basis and implementation of its provisions are necessary for the realization of the objectives of the Second Decade to Combat Racism and Racial Discrimination; 9/

4. Requests those States which have not yet become parties to the Convention to ratify it or accede thereto;

5. Calls upon the States parties to the Convention to consider the possibility of making the declaration provided for in article 14 of the Convention;

6. Requests the Secretary-General to submit to the General Assembly at its forty-seventh session a report concerning the status of the Convention, in accordance with Assembly resolution 2106 A (XX) of 21 December 1965.

DRAFT RESOLUTION III

Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid

The General Assembly,

Recalling its resolutions 41/103 of 4 December 1986, 42/56 of 30 November 1987, 43/97 of 8 December 1988 and 44/69 of 8 December 1989,

Mindful that the International Convention on the Suppression and Punishment of the Crime of Apartheid 10/ constitutes an important international treaty in the field of human rights and serves to implement the ideals of the Universal Declaration of Human Rights, 11/

7/ Resolution 2106 A (XX), annex.

8/ A/45/402.

9/ Resolution 38/14.

10/ Resolution 3068 (XXVIII), annex.

11/ Resolution 217 A (III).

Reaffirming its conviction that apartheid is a crime against humanity and constitutes a total negation of the purposes and principles of the Charter of the United Nations and a gross violation of human rights, seriously threatening international peace and security,

Strongly condemning the abhorrent policy and system of apartheid and the brutal repression it engenders, which continue to aggravate the situation in South Africa,

Emphasizing that the root cause of the conflict in southern Africa is apartheid and the racist régime's policy of aggression, State terrorism and destabilization againt the front-line and other neighbouring States,

Condemning the continued collaboration of certain States and transnational corporations with the racist régime of South Africa in the political, economic, military and other fields as an encouragement to the intensification of its odious policy of apartheid,

Underlining that ratification of or accession to the Convention on a universal basis and the implementation of its provisions without any delay are necessary for its effectiveness and therefore will contribute to the eradication of the crime of apartheid,

1. Takes note of the report of the Secretary-General on the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid; 12/

2. Commends those States parties to the Convention that have submitted their reports under article VII thereof;

3. Appeals once again to those States that have not yet done so to ratify or to accede to the Convention without further delay, in particular those States that have jurisdiction over transnational corporations operating in South Africa and without whose co-operation such operations could not be halted;

4. Underlines the importance of the universal ratification of the Convention, which would be an effective contribution to the fulfilment of the ideals of the Universal Declaration of Human Rights and other human rights instruments;

5. Calls upon all States whose transnational corporations continue to do business with South Africa to take appropriate steps to terminate their dealings with South Africa;

6. Requests the Commission on Human Rights to intensify, in co-operation with the Special Committee against Apartheid, its efforts to compile periodically

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12/ A/45/406.

the progressive list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as well as those against whom or which legal proceedings have been undertaken;

7. Requests the Secretary-General to circulate that list among all States parties to the Convention and all Member States and to bring such facts to the attention of the public by all means of mass communication;

8. Also requests the Secretary-General to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission on Human Rights with relevant information concerning the forms of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa;

9. Notes the importance of measures to be taken by States parties in the field of teaching and education for fuller implementation of the Convention;

10. Appeals to all States, United Nations organs, the specialized agencies and international and national non-governmental organizations to step up their activities to enhance public awareness by denouncing the crimes committed by the racist régime with a view to promoting further ratification of or accession to the Convention;

11. Requests the Secretary-General to intensify his efforts, through appropriate channels, to disseminate information on the Convention and its implementation with a view to promoting further ratification of or accession to the Convention;

12. Also requests the Secretary-General to include in his next annual report under General Assembly resolution 3380 (XXX) of 10 November 1975 a special section concerning the implementation of the Convention.

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Agenda item 92

IMPLEMENTATION OF THE WORLD PROGRAMME OF ACTION CONCERNING DISABLED PERSONS AND THE UNITED NATIONS DECADE OF DISABLED PERSONS

Report of the Third Committee

Rapporteur: Mr. Mario DE LEON (Philippines)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 21 September 1990, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "Implementation of the World Programme of Action concerning Disabled Persons and the United Nations Decade of Disabled Persons" and to allocate it to the Third Committee.

2. The Committee considered the item jointly with items 90, 96, 99 and 104 at its 11th to 17th, 25th and 37th meetings, on 17 to 23 and 30 October and 9 November 1990. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/45/SR.11-17, 25 and 37).

3. For its consideration, the Committee had before it the following documents:

(a) Report of the Secretary-General on the implementation of the World Programme of Action concerning Disabled Persons and the United Nations Decade of Disabled Persons (A/45/470);

(b) Letter dated 16 October 1990 from the Permanent Mission of Finland to the United Nations addressed to the Secretary-General (A/C.3/45/7).

4. At the 11th meeting, on 17 October, the Director-General of the United Nations Office at Vienna and the Director of the Social Development Division made introductory statements (see A/C.3/45/SR.11).

5. Also at the same meeting the Special Representative of the Secretary-General for the Promotion of the United Nations Decade of Disabled Persons made a statement (see A/C.3/45/SR.11).

II. CONSIDERATION OF DRAFT RESOLUTION A/C.3/45/L.17

6. At the 25th meeting, on 30 October, the representative of the Philippines introduced draft resolution A/C.3/45/L.17 entitled "Implementation of the World Programme of Action concerning Disabled Persons and the United Nations Decade of Disabled Persons" sponsored by Austria, Bangladesh, Belgium, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Denmark, the Dominican Republic, Ecuador, Egypt, El Salvador, France, Finland, Germany, Greece, Guatemala, Iceland, Indonesia, Italy, Jamaica, Kenya, the Libyan Arab Jamahiriya, Mauritania, Morocco, Myanmar, Norway, Peru, the Philippines, Poland, Romania, Saudi Arabia, Spain, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Yugoslavia and Zimbabwe. Subsequently, Samoa, Somalia, Turkey and Zaire joined in sponsoring the draft resolution.

7. At its 37th meeting, on 9 November, the Committee adopted draft resolution A/C.3/45/L.17 without a vote (see para. 8).

III. RECOMMENDATION OF THE THIRD COMMITTEE

8. The Third Committee recommends to the General Assembly the adoption of the following draft resolution:

Implementation of the World Programme of Action concerning Disabled Persons and the United Nations Decade of Disabled Persons

The General Assembly,

Recalling all its relevant resolutions, including resolution 37/52 of 3 December 1982, by which it adopted the World Programme of Action concerning Disabled Persons, 1/ and resolution 37/53 of 3 December 1982, in which, inter alia, it proclaimed the period 1983-1992 the United Nations Decade of Disabled Persons as a long-term plan of action,

Recalling also its resolution 43/98 of 8 December 1988, in which it urged Member States, intergovernmental organizations and non-governmental organizations concerned to translate into action at all levels, as appropriate, the priorities for global activities and programmes during the second half of the Decade, such as those set forth in the annex to the resolution,

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1/ A/37/351/Add.1 and Corr.1, annex, sect. VIII, recommendation 1 (IV).

Recalling further the request to the Secretary-General contained in its resolution 43/98 to conduct a feasibility study on the substantive, financial and administrative implications of alternative ways to mark the end of the Decade in 1992, which would include a review of the global progress achieved and obstacles encountered during the Decade and which would provide a mechanism for preparing the actions needed until the year 2000 and beyond,

Recalling Economic and Social Council resolution 1989/52 of 24 May 1989, in particular paragraph 9, in which the Council invited the Secretary-General, in connection with the preparation of the feasibility study, to convene an expert meeting in 1990 to advise on the best possible ways of marking the end of the Decade,

Having considered with interest and appreciation the feasibility study of the Secretary-General on alternative ways to mark the end of the Decade, 2/ which was based on the outcome of a meeting of experts held at Järvenpää, Finland, from 7 to 11 May 1990, at the generous invitation and with the financial support of the Government of Finland,

Taking note of the suggestion contained in the report of the Secretary-General to consider the proposal for a ministerial-level world conference to mark the end of the Decade, 3/

Bearing in mind Economic and Social Council resolution 1990/26 of 24 May 1990 on the equalization of opportunities for disabled persons, in which the Council authorized the Commission for Social Development to consider, at its thirty-second session, the establishment of an ad hoc open-ended working group of government experts, funded by voluntary contributions, to elaborate standard rules on the equalization of opportunities for disabled children, youth and adults,

Noting with satisfaction that the 1980s, which included the observance of the International Year of Disabled Persons and of the Decade, were a period of world-wide sensitization and awareness-raising efforts on the rights and needs of disabled persons,

Convinced of the need to transform this awareness into action,

Noting with concern the deteriorating economic and social situations of some developing countries, which adversely affect vulnerable groups, including disabled persons,

Aware of the need for new and concerted efforts, more vigorous and broader action, and measures at all levels to fulfil the objectives of the Decade,

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2/ A/45/470.

3/ Ibid., para. 14.

Expressing its appreciation for the efforts of a number of Member States during the Decade to improve the conditions and well-being of disabled persons and the willingness of those States to involve disabled persons and their organizations in all matters of concern to them,

Aware of the problem arising in some countries in relation to the translation of the terms "impairment", "disability", "handicap" and "disabled person" used in the World Programme of Action,

Noting with gratitude the generous support to the Voluntary Fund for the United Nations Decade of Disabled Persons provided by some Governments through voluntary contributions,

Aware of the important role national committees are playing in furthering the implementation of the World Programme of Action,

Encouraged by the emergence of organizations of disabled persons in some parts of the world and their positive influence on the image and condition of persons with disabilities,

Recognizing the Rehabilitation International Congress, the World Congress of Disabled People's International, the World Congress Blind Union, Independence '92 and other such important events to be held in 1992 as important activities helping to mark the end of the Decade,

Noting the important contribution being made by other non-governmental organizations in improving the status of persons with disabilities,

Desirous of encouraging the continued and practical implementation of the World Programme of Action beyond the Decade,

1. Stresses the need to achieve the objectives set out in the agenda for action until the end of the United Nations Decade of Disabled Persons 4/ and the preliminary outline of a long-term strategy to the year 2000 and beyond: a society for all, 5/ contained in the report of the Secretary-General on the feasibility study on alternative ways to mark the end of the Decade;

2. Invites Member States, specialized agencies and other organizations and bodies of the United Nations system, intergovernmental organizations and non-governmental organizations to implement the agenda for action and the preliminary outline and to use them as guidelines and stimuli in preparing:

(a) National, regional and international agendas for action aimed at mounting well-focused activities at all levels to benefit people with disabilities in ways that are in conformity with the culture, customs, traditions, level of socio-economic development and resource constraints of each country;

4/ Ibid., sect. III.

5/ Ibid., sect. IV.

(b) Long-term strategic plans with precise targets to be reached in the field of prevention, rehabilitation and equality of opportunities by the year 2000;

3. Affirms that, in implementing the agenda for action, special attention should be given to the disabled in developing countries;

4. Requests the Secretary-General to shift the focus of the United Nations programme on disability from awareness-raising to action, with the aim of achieving a society for all by the year 2010 and of responding more appropriately to the many requests for assistance and advisory services;

5. Stresses the need, within existing resources, for priority to be given to action-oriented programmes that will renew international consensus on and elicit a sustained political commitment by Member States to the implementation of the World Programme of Action beyond the Decade and will ensure the continued improvement of the situation of disabled persons;

6. Requests the Secretary-General to assist Member States in establishing and strengthening national committees on disability issues and similar co-ordinating bodies and to promote and support the establishment of effective national organizations of disabled persons, including umbrella organizations;

7. Also requests the Secretary-General to review the translation into the official languages of the United Nations of the terms "impairment", "disability", "handicap" and "disabled persons" used in the World Programme of Action;

8. Emphasizes the need to identify specific measures to strengthen the Disabled Persons Unit of the Centre for Social Development and Humanitarian Affairs of the Secretariat, within existing resources, in order to enable it to implement the objectives of the Decade;

9. Welcomes the support already provided by some Governments to the Voluntary Fund for the United Nations Decade of Disabled Persons and appeals for further voluntary contributions in order to strengthen the Disabled Persons Unit and to enable it to perform its focal-point functions;

10. Reaffirms that the resources of the Voluntary Fund should be used to support catalytic and innovative activities in order to implement further the objectives of the World Programme of Action within the framework of the Decade, with priority given, as appropriate, to programmes and projects of the least developed countries;

11. Invites Governments and non-governmental organizations to continue their contributions to the Voluntary Fund, and calls upon Governments and non-governmental organizations that have not yet done so to consider contributing to the Voluntary Fund so as to enable it to respond effectively to the growing demand for assistance;

12. Also invites Member States to submit updated national reports to the Secretary-General on the implementation of the agenda for action;

13. Requests the Secretary-General to report to the General Assembly at its forty-sixth session on the implementation of the present resolution;

14. Decides to include in the provisional agenda of its forty-sixth session the item entitled "Implementation of the World Programme of Action concerning Disabled Persons and the United Nations Decade of Disabled Persons."